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Judge gives Justice Dept. one week to turn over FBI files in Bijan Ghaisar slaying

Government had resisted providing information in family's lawsuits vs U.S. Park Police and two officers

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By Tom Jackman

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A federal magistrate judge on Friday gave the Justice Department one week to hand over the FBI's investigative files to lawyers for the family of Bijan Ghaisar, who was shot and killed by two U.S. Park Police officers in 2017.

During a hearing in federal court in Alexandria, Va., the judge repeatedly rebuked a federal attorney for delaying pretrial discovery in the lawsuit against the Park Police and rejected her request to file motions on the issue.

Ghaisar, 25, was shot and killed by Officers Lucas Vinyard and Alejandro Amaya as he slowly drove away from them in his Jeep Grand Cherokee on Nov. 17, 2017. He was unarmed, but had driven away from the officers in two previous stops minutes earlier. The FBI took over investigation of the case, and in November 2019 the Justice Department ruled that no federal criminal civil rights charges would be filed against the officers.

Ghaisar's family sued the Park Police and the officers in 2018. The cases are currently separate, because the Park Police won a dismissal of the case on technical grounds and then were re-sued last year. Both cases are assigned to Senior U.S. District Judge Claude M. Hilton, and some pretrial matters are being heard by U.S. Magistrate Judge Ivan D. Davis.

A scheduling order entered by Davis in the Park Police case in January required both sides to exchange pretrial discovery by Feb. 17. When the Ghaisars' attorneys did not receive the investigative file, they said they asked government attorneys for a meeting, and the government objected. So they turned to Davis.

“I’m a little concerned, right off the bat,” the judge said Friday, “that the United States has informed the plaintiff that they intend to produce documents in stages. I don’t recall that being the discovery process agreed to in the joint discovery plan.” Thomas Connolly, one of the Ghaisars’ lawyers, said, “The only materials I’ve received to date are the policy manuals of the Park Police.”

Kimere J. Kimball, a Justice Department attorney representing the Park Police, told the judge she read the federal rules to say that the department could turn over documents in a reasonable time. “You’ve read them wrong,” Davis said.



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“It’s an extremely voluminous file,” Kimball said.

“You put it on a thumb drive, and you turn it over,” Davis replied.

“It’s a sensitive case,” Kimball said.

“There are plenty of cases in this court that are sensitive,” the judge said. “You do not *not* produce information because it’s sensitive. The other side has the right to information that’s necessary to prove their claims.” If the government wanted to withhold some information from the Ghaisars, it could have filed a motion seeking to have certain items withheld. Kimball asked for an opportunity to file for such protection.

“At this juncture, your opportunities are over,” Davis said. “You will produce the information by close of business next Friday.”

A similar motion is pending before Hilton in the case against the officers. In addition to seeking a similar ruling, the Ghaisars are hoping Hilton consolidates the two suits into one case. There is no trial date set for either case.

There was also no indication Friday whether the Justice Department would represent the officers, who are currently represented by private attorneys. The department last month informed Fairfax County prosecutors, who are considering whether to bring criminal charges against Amaya and Vinyard, that it would not allow FBI agents to come before a Fairfax County grand jury because it could create a conflict of interest if the Justice Department decides to defend the officers in the civil case. Connolly said the Justice Department must decide if the officers’ actions in firing 10 shots at Ghaisar met the legal standard of “objectively reasonable” before joining the case.

Amaya, 41, and Vinyard, 39, both remain on paid administrative duty. No internal investigation has been conducted yet, pending a decision by Fairfax County on criminal charges, the Park Police said.

“It was just a little glimmer of justice,” Ghaisar’s mother, Kelly Ghaisar, said after the hearing. “All we want is truth. I think this was a step towards that.”

James Ghaisar, Ghaisar's father, said it had been 840 days since his son was shot. "Every day we get up in denial that this happened," he said. "Maybe this is justice. Maybe there are people who are interested in helping justice be served."